

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

STATE OF ARIZONA,

Plaintiff,

SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY

Plaintiff,

and

GILA RIVER INDIAN COMMUNITY,

Plaintiff-Appellant,

v.

TOHONO O'ODHAM NATION,

Defendant-Appellee.

No. 13-16517

STATE OF ARIZONA,

Plaintiff-Appellant,

and

GILA RIVER INDIAN COMMUNITY
and SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY,

Plaintiffs,

v.

TOHONO O'ODHAM NATION,

Defendant-Appellee.

No. 13-16519

STATE OF ARIZONA and GILA
RIVER INDIAN COMMUNITY,

Plaintiffs,

and

SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY,

Plaintiff-Appellant,

v.

TOHONO O'ODHAM NATION,

Defendant-Appellee.

No. 13-16520

APPELLANTS' UNOPPOSED JOINT MOTION TO CONSOLIDATE

Appellants Gila River Indian Community, the State of Arizona, and Salt River Pima-Maricopa Indian Community submit this Unopposed Joint Motion to Consolidate their appeals in the above-captioned cases. All three appeals have been taken from the same orders issued in the same trial court case. Counsel for the Appellee, Tohono O'odham Nation has advised that it consents to this motion.

On April 22, 2011, the Appellants filed an amended complaint against the Tohono O'odham Nation to enjoin it from constructing and operating a casino on a parcel of land in Glendale, Arizona, alleging that such construction (i) would violate provisions of the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, and the Nation's gaming compact with Appellant the State of Arizona; (ii) would repudiate promises made to all of the Appellants upon which they had

detrimentally relied; and (iii) would otherwise be unlawful. *See Amended Complaint, State of Arizona et al. v. Tohono O'odham Nation*, No. 11-cv-00296-DGC, Judge David G. Campbell (D. Ariz., filed April 22, 2011). The district court granted the Nation's motion to dismiss with respect to the Appellants' claims for fraudulent inducement and material misrepresentation on June 15, 2011. Then, in orders dated May 7, 2013, and June 25, 2013, the district court granted the Nation's motion for summary judgment and denied Appellants' cross-motion for summary judgment on all remaining claims.

Each of the Appellants timely appealed from the district court's final judgment, and all prior orders encompassed therein, on July 23, 2013 (Gila River Indian Community) and July 25, 2013 (Salt River Pima-Maricopa Indian Community and State of Arizona). This Court then docketed those appeals as three separate cases on July 26, 2013. *See State of Arizona et al. v. Tohono O'odham Nation*, No. 13-16517 (9th Cir., docketed July 26, 2013) (Gila River Indian Community appeal); *State of Arizona et al. v. Tohono O'odham Nation*, No. 13-16519 (9th Cir., docketed July 26, 2013) (State of Arizona appeal); *State of Arizona et al. v. Tohono O'odham Nation*, No. 13-16520 (9th Cir., docketed July 26, 2013) (Salt River Pima-Maricopa Indian Community appeal). Because all three appeals arise from the same final judgment and orders issued in the same trial court case,

Appellants respectfully request that the Court grant this unopposed motion that the three appeals be consolidated into a single appeal to this Court.

DATED: August 20, 2013

Thomas C. Horne
Michael Tryon
Evan Hiller
Office of the Attorney General
STATE OF ARIZONA
1275 West Washington Street
Phoenix, Arizona 85007
Tel: (602) 542-8355
Michael.Tryon@azag.gov
Evan.Hiller@azag.gov

Counsel for Appellant the State of Arizona

Mary R. O'Grady
John L. Blanchard
Shane M. Ham
Grace E. Rebling
OSBORN MALEDON, P.A.
2929 North Central Avenue
Suite 2100
Phoenix, Arizona 85012
Tel: (602) 640-9352
mogrady@omlaw.com
jblanchard@omlaw.com
sham@omlaw.com

Counsel for Appellant Salt River Pima-Maricopa Indian Community

Respectfully submitted,

s/ Patricia A. Millett
Patricia A. Millett
James P. Tuite
Merrill C. Godfrey
AKIN GUMP STRAUSS HAUER & FELD LLP
1333 New Hampshire Ave., N.W.
Washington, D.C. 20036
Tel: (202) 887-4000
pmillett@akingump.com

Linus Everling, General Counsel
GILA RIVER INDIAN COMMUNITY
525 W. Gu u Ki
P.O. Box 97
Sacaton, Arizona 85247

Counsel for Appellant Gila River Indian Community

Pursuant to 9th Cir. R. 25-5(f), I attest that Appellants the State of Arizona and Salt River Pima-Maricopa Indian Community concur in the content of this filing.

CERTIFICATE OF SERVICE

I hereby certify that on August 20th, 2013, I electronically filed the foregoing UNOPPOSED JOINT MOTION TO CONSOLIDATE with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the Court's CM/ECF system.

All counsel of record in this case are registered CM/ECF users and will be served by the Court's CM/ECF system.

s/ Patricia A. Millett